GULDE & PARTNER

NEWSLETTER
Patents

1st Quarter 2026

EPO Fees | EPO - Procedural Acceleration | EPO - Patenting AI | EPC - Moldova | GULDE – Tobias Nickel Partner

EPO Fees

EPO to Raise Official Fees from April 2026 While Maintaining Key Procedural Charges

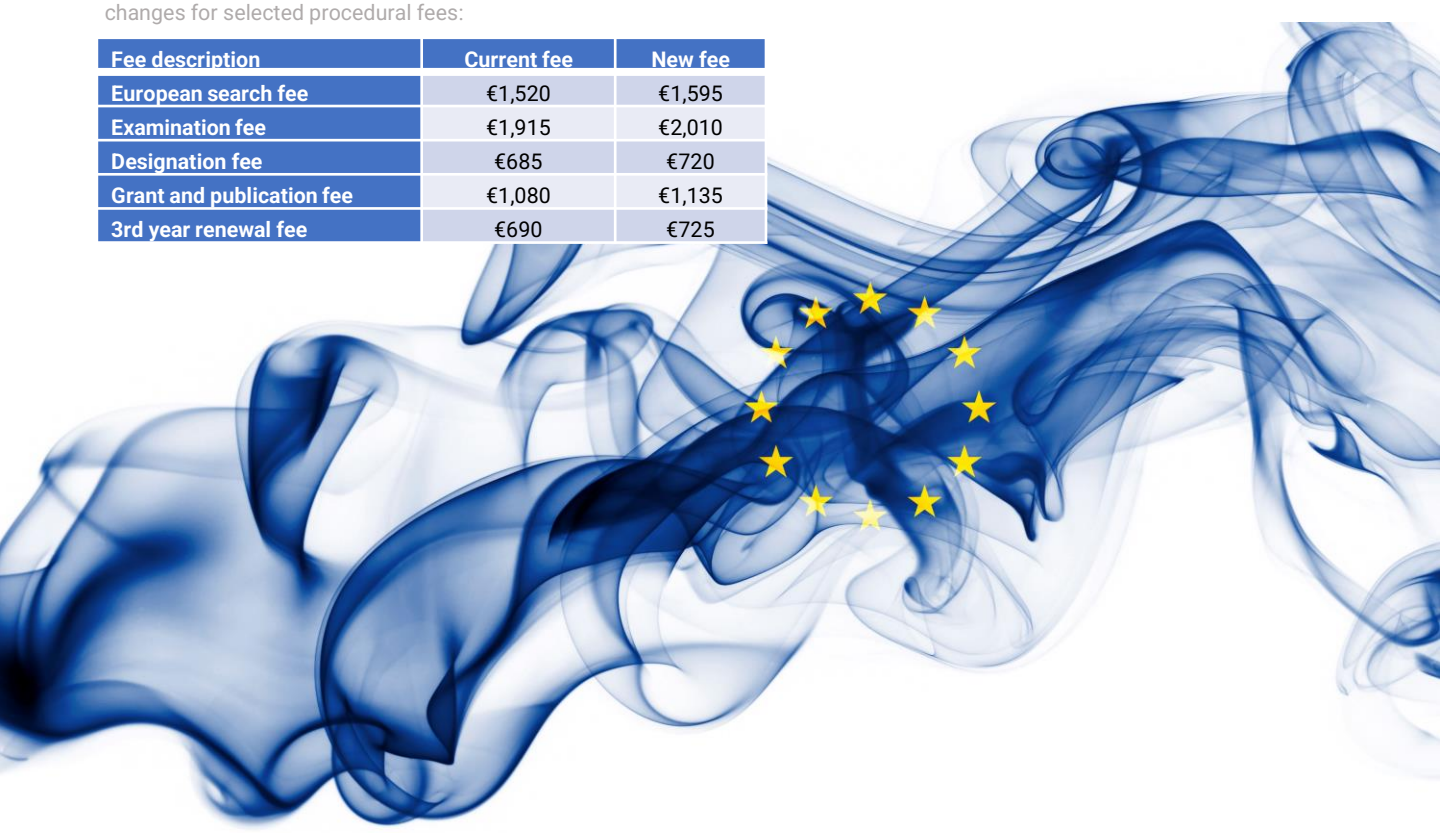
The European Patent Office (EPO) will introduce a new schedule of official fees with effect from 1 April 2026, following a decision of its Administrative Council on 11 December 2025 (CA/D 9/25). The update marks a return to biennial, inflation-based adjustments and will result in an average increase of approximately 5% across most procedural stages.

A number of core fees will be affected. The European search fee, examination fee, designation fee, grant and publication fee, as well as several renewal fees will increase. The following table illustrates the changes for selected procedural fees:

Fee description	Current fee	New fee
European search fee	€1,520	€1,595
Examination fee	€1,915	€2,010
Designation fee	€685	€720
Grant and publication fee	€1,080	€1,135
3rd year renewal fee	€690	€725

Despite the broad-based increase, several important fees will remain unchanged. Filing fees — whether submitted online or on paper — will not be increased. Nor will opposition fees, appeal fees, or additional page fees for applications exceeding 35 pages. Renewal fees for Unitary Patents will also remain at their current levels. By holding these fees steady, the EPO appears to be seeking to mitigate the impact on applicants at the filing stage and in contentious proceedings.

As a general rule, official fees must be paid at the rate prevailing on the date of payment. Consequently, fees paid on or after 1 April 2026 must be settled at the new, higher rate where applicable. However, the EPO has introduced a transitional safeguard. For six months following the entry into force of the new schedule — until 1 October 2026 — a fee mistakenly paid at the old rate will still be considered validly paid, provided that any shortfall is remedied within two months of an invitation from the Office.



EPO Practice

Fast-Track to Grant: Acceleration Options before the EPO

Applicants seeking quicker outcomes in European patent proceedings have several procedural tools available before the European Patent Office (EPO). Acceleration can be achieved through PACE requests, targeted waivers of certain communications, early entry into the European phase, and participation in the Patent Prosecution Highway (PPH). Each option has distinct procedural effects and formal requirements.

PACE: Accelerated Examination on Request

The Programme for Accelerated Prosecution of European Patent Applications (PACE) allows applicants to request faster examination once the application is under the responsibility of the examining division. The previously existing PACE for search has been discontinued. While a request may be filed at any time during examination, it is generally most effective when submitted after receipt of the European search report and with the response to the search opinion.

If a valid PACE request is granted, the EPO aims to issue the first examination communication within three months. However, PACE is subject to strict conditions. It applies only at the examination stage, and a second request for the same stage is not possible if the application has been removed from PACE, for example due to a request for extension of time. Applicants filing numerous requests may also be asked to limit them to genuinely urgent cases.

PACE is equally available for Euro-PCT applications, preferably upon entry into the European phase or together with the required response under Rule 161(1) EPC.

Waivers and Early Processing: Cutting Waiting Periods

Acceleration may also be achieved by waiving certain procedural communications that create waiting periods. For Euro-PCT applications, applicants can waive the communication under Rules 161 and 162 EPC upon entry into the European phase. If any required fees are paid and responses filed, the supplementary European search can start immediately rather than after the standard six-month period.

Applicants who request examination before the search report is transmitted may waive the invitation under Rule 70(2) EPC, allowing examination to proceed without further confirmation.

Early entry into the European phase before expiry of the 31-month deadline offers an additional option for acceleration. Early processing can be combined with the above-mentioned waivers which otherwise will only be considered after the end of the 31-month period.

Patent Prosecution Highway (PPH): Leveraging Foreign Allowance

Under the PPH framework, applicants whose claims have been found allowable by a partner office may request accelerated examination of a corresponding European application before substantive examination begins.

Requests can rely on positive PCT work products or positive national examination results. Translations of these positive results and the underlying claims must be filed, together with a declaration of correspondence between the allowed claims and those pending at the EPO.

Once accepted, the application is processed more rapidly. While PPH requires prior allowance abroad and stricter eligibility criteria, PACE offers a more flexible route to speed up examination.

Together, the mechanisms described here provide applicants with effective strategies to reduce time to grant at the EPO. GULDE will help you to determine the best strategy for you.

EPO Patenting AI

The Framework for patenting Artificial Intelligence (AI) at the EPO

While AI is transforming industries, the rules for creating IP in this field are – at least for the moment – somewhat settled. The European Patent Office (EPO) provides a distinct legal framework for applicants, which is shaped by both, the EPO Guidelines for Examination as well as the case law of the EPO Boards of Appeal. In this article, we summarize the EPO's current approach and compare it shortly to that of the US Patent and Trademark Office (USPTO).

1st Hurdle - Technical Character

The European Patent Convention (EPC) excludes mathematical methods and programs for computers "as such" from patentability under Article 52. However, this exclusion is interpreted narrowly. According to the EPO Guidelines for Examination (G-II, 3.3.1), an AI-related invention is considered to have technical character as a whole, and thus overcomes this initial hurdle, if the claim is directed to a method involving a technical means (like a computer) or to a device. This initial bar is relatively low, but it sets the stage for a more rigorous examination.

2nd Hurdle - COMVIK Approach

The true test for an AI invention at the EPO lies in the assessment of inventive step (Art. 56 EPC). Here, the EPO applies the established "COMVIK approach" (originating from T 641/00 and affirmed by the Enlarged Board of Appeal in G1/19). Under this framework, an AI algorithm or computational model can contribute to an inventive step if it is used to solve a technical problem.

The EPO Guidelines (G-II, 3.3.1) clarify that this contribution can be demonstrated in two primary ways:

Application to a Field of Technology: The AI model is used for a specific technical purpose. For example, using a neural network for classifying digital images based on low-level features (e.g., pixel attributes)

Adaptation to Specific Implementation: The design of the AI model is motivated by technical considerations of the internal functioning of the computer. This means the AI is specifically adapted to the underlying hardware.

Hence, the EPO's approach focus on solving a "*technical problem*". Patenting abstract ideas is generally prohibited also at the USPTO under 35 U.S.C. § 101 and the *Alice* framework. However, the recent landmark decision in ***Ex parte Desjardins*** showed that an improvement to the functioning of the AI model itself can, in the US, constitute a patent-eligible "*practical application*." In ***Desjardins***, a method for training a model to avoid "catastrophic forgetting" was found eligible because it improved the AI model's operation by reducing storage and preserving performance. This demonstrates that while the EPO requires the AI to be linked to an external technical context or a hardware-specific implementation, the USPTO appears more willing to recognize the internal workings and efficiency gains of the AI model as a patentable technical improvement. In this regard, the EPO is more strict as witnessed by the EPO Guidelines for Examination in section G-II 3.3 that state

"Computational efficiency

If the mathematical method does not serve a technical purpose and the claimed technical implementation does not go beyond a generic technical implementation, the mathematical method does not contribute to the invention's technical character. In such cases, it is not sufficient that the mathematical method is algorithmically more efficient than prior-art mathematical methods to establish a technical effect."

3rd Hurdle - Sufficient Disclosure

Recent EPO case law reveals that sufficiency of disclosure (Art. 83 EPC) is another critical issue for AI patent applications. An application must disclose the invention in a manner sufficiently clear and complete for a skilled person to reproduce it without undue burden.

As highlighted in several Board of Appeal decisions, the application should also disclose details about the training of the neural network (T161/18, T748/19). Also, the EPO Guidelines state that where a classification method serves a technical purpose, the steps of generating the training set and training the classifier can contribute to the technical character. If the technical effect depends on characteristics of the training data used, the characteristics required to reproduce the technical effect must be disclosed. However, in general, there is no need to disclose the specific training dataset itself.

Summarized, to successfully prosecute Artificial Intelligence invention applications at the EPO, one should:

Demonstrate a Clear Technical Purpose. The core of the inventive step argument must be that the AI solves a technical problem, either as a specific technical application or implementation.

Provide a Detailed and Enabling Disclosure. The application should disclose the specific structure of the AI model and provide enough information about the training data and the training process, to show that a skilled person can reproduce the invention and its effect without undue experimentation.

Strengthening European Patent Integration

"Moldova to Become the 40th EPC Member State"

On 25 March 2026, the Republic of Moldova completed the final step towards accession to the European Patent Convention (EPC) by depositing its instrument of accession. The accession will take effect on 1 June 2026, making Moldova the 40th contracting state of the European Patent Organisation (EPO)

Cooperation between the EPO and Moldova dates back to the mid-1990s, culminating in a validation agreement signed in 2013 and effective since 2015.Under this framework, applicants could already validate European patents in Moldova without filing a separate national application.

However, with accession Moldova will become **automatically designated in all European patent applications** and **no validation fee** will be required. This transition simplifies procedures and further harmonises patent protection across Europe.

Moldova's accession represents more than a numerical increase in EPC membership. It illustrates the **continued convergence of European IP systems** and the growing relevance of the EPC beyond the EU.

For practitioners, the change is operationally straightforward but strategically significant: **a broader, more unified European patent landscape with fewer procedural barriers.**

Tobias Nickel becomes new partner

Gulde & Partner expands partnership with Tobias Nickel

There is exciting news in the ongoing development of Gulde & Partner: Tobias Nickel, an experienced patent attorney who has been with Gulde & Partner since 2020, joined the firm as a new partner as of 1 January 2026.

Tobias Nickel
Partner - German and European Patent Attorney - European Patent Litigator

Tobias Nickel studied physics with a focus on solid state physics as well as nanostructure and semiconductor physics at the University of Hamburg. In addition to semiconductors, he has gained in-depth knowledge in the fields of telecommunications and automotive engineering.

Since 2015, Mr. Nickel has been active in the field of intellectual property law, receiving his registrations as a German Patent Attorney in 2018, as a European Patent Attorney in 2019, and as a European Patent Litigator in 2023.

As a dedicated expert, he works across the entire spectrum of intellectual property law, including patent prosecution, opposition proceedings and patent analysis.

In the course of his work as a patent attorney, Mr. Nickel has also been successfully involved in several infringement proceedings and parallel nullity proceedings before the German Federal Patent Court. Since the UPCA came into force, his litigation practice has also extended to proceedings before the Unified Patent Court.

With him joining as a partner, the firm now has eight experienced partners who combine their extensive expertise and individual strengths to best serve the diverse needs of their clients.

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